

### **REMARKS**

This amendment is submitted with a Request for Continued Examination and appropriate fees in reply to the Office Action dated June 5, 2008. Claims 1-18 currently stand rejected. Applicant has amended independent claims 1, 10 and 18 to more particularly distinguish the claimed invention from the cited references. Newly added claims 19-24 have been added to further define patentable aspects of the invention. No new matter has been added by the amendment.

In light of the amendment and the remarks presented below, Applicant respectfully requests reconsideration and allowance of all now-pending claims of the present application.

#### **Claim Rejections - 35 USC §101 and 112**

Claims 1, 10 and 18 currently stand rejected under 35 U.S.C. §101 and 35 U.S.C. §112, first paragraph, as lacking support, failing to comply with the written description requirement, and being indefinite. Specifically, the Office Action asserts that the recited feature “in full quality and full length” is indefinite and not supported in the specification.

While Applicants believe the above recited feature to be clearly implicit in the specification, in order to further prosecution, Applicants have deleted the recited feature from independent claims 1, 10 and 18. Accordingly, Applicants respectfully submit that the rejections of claims 1, 10 and 18 under 35 U.S.C. §101 and 35 U.S.C. §112, first paragraph, are respectfully traversed.

#### **Claim Rejections - 35 USC §103**

Claims 1-18 currently stand rejected under 35 U.S.C. §103(a) as being unpatentable over Wisner et al. (U.S. Patent No. 6,868,403, hereinafter “Wisner”) in view of Sasaki et al (U.S. Patent Application Publication No. 2002/0077988, hereinafter “Sasaki”).

Independent claims 1, 10 and 18 provide for effecting payment for the pre-studied downloaded content for the software application for enabling storing of the pre-studied downloaded content for the software application without further user interaction beyond selecting the pre-studied downloaded content for storage, wherein effecting the payment is

enabled subsequent to an account verification conducted relative to the user prior to the downloading of the downloaded content. Notably, the content that is pre-studied is the same content that was requested, downloaded in response to the request and ultimately stored after payment is effected. This is much different than the process of Wiser.

In Wiser, a web browser page is displayed having a link to a preview of a desired media data file. As the preview link is clicked, a request is invoked (col. 15, lines 43-45) and a media player eventually receives a stream of the preview, which is played (col. 16, lines 3-5). The preview is of inferior quality and of a limited duration compared to the full quality media data file (col. 3, lines 60-65). Thus, according to Wiser, if one considers the content requested to actually be the inferior quality preview, the same content that is requested is previewed, but if a purchase of content is effected, it is a different, full quality version that is ultimately stored. Meanwhile, if one considers the requested content to be the full quality version, then the previewed content is clearly different from that which is requested and ultimately stored if the content is purchased.

Meanwhile, according to the claimed invention, the same content that is requested, is also pre-studied and, if purchased, later stored. Thus, Wiser fails to teach or suggest effecting payment for the pre-studied downloaded content for the software application for enabling storing of the pre-studied downloaded content for the software application much less effecting payment for the pre-studied downloaded content for the software application for enabling storing of the pre-studied downloaded content for the software application without further user interaction beyond selecting the pre-studied downloaded content for storage, as provided in independent claims 1, 10 and 18.

Accordingly, the claimed invention has advantages over Wiser in that the user is able to listen to the full or actual version that is to be purchased in good quality, which may render the content more attractive to the user. Additionally, the user is only required to establish one connection session between the server and the downloading device, which is more reliable and saves bandwidth. In Wiser, the user may not be able to download the content once a decision to do so has been made since coverage may have been lost during the pre-study phase. This risk is

not shared in embodiments of the present invention because only one session is required and once the session is completed all necessary data is on the device.

Sasaki does not provide details regarding how payment transactions are conducted. Thus, Sasaki fails to teach or suggest the above recited feature and is not cited as such. Instead, Sasaki is mainly relied upon for disclosing a preview of a full quality version. However, Sasaki's disclosure of a full quality preview version does not cure the deficiency of Wiser, in particular, because Sasaki teaches away from the claimed invention. In this regard, Sasaki provides that an unlicensed user who has not paid for the content is able to replay content more than once, such that it is implicit in Sasaki that the content is saved on the device in other than a buffer. Moreover, Sasaki expressly provides that even unlicensed users can share the content with other users (as described in paragraph [0034] and the last two lines of paragraph [0033] of Sasaki). Thus, Sasaki enables one user to simply copy the content to another device, which may enable sharing of content without any payment at all. This enablement for hijacking content without payment directly teaches away from the claimed invention, which enables downloading and pre-study, but only enables saving in response to purchasing of the content. Accordingly, a combination of Sasaki and Wiser would not be made by one of skill in the art.

Sasaki also introduces other disadvantages that counsel against combination with Wiser. In this regard, Sasaki requires that meta-data be attached to the content to indicate whether a user is licensed or not (paragraph [0033]). Thus, Sasaki introduces disadvantages relative to the claimed invention in that a special player is required that can read and understand the meta-data, thereby providing that only pre-processed content (e.g., content having the meta-data installed) can be used with the service, thereby limiting the potential use of Sasaki.

Finally, Applicants respectfully note that the claimed invention also provides for payment details to be agreed beforehand, which saves sending sensitive information. In particular, independent claims 1, 10 and 18 provide that effecting the payment is enabled subsequent to an account verification conducted relative to the user prior to the downloading of the downloaded content. As an example, as explained at page 6, lines 20-26, when a request for available items is sent to a content provider, the content provider may reply with a list of items from which an item can be selected for downloading. Simultaneously, an enquiry concerning the status and

validity of the user's account is conducted. Wiser, on the other hand, as clearly shown in FIGS. 8 and 9A, does not confirm account status until after preview content is requested and delivered. Meanwhile, Sasaki fails to provide any disclosure in relation to this feature and is not cited as such. Thus, Wiser and Sasaki, alone or in combination, fail to teach or suggest that effecting the payment is enabled subsequent to an account verification conducted relative to the user prior to the downloading of the downloaded content as provided in independent claims 1, 10 and 18.

Since neither Sasaki nor Wiser teaches or suggests the above described features of independent claims 1, 10 and 18, any combination of Sasaki and Wiser also fails to teach or suggest the above described features. Claims 2-9, 11-17 and 19-24 depend either directly or indirectly from independent claims 1, 10 and 18, respectively, and thus include all the recitations of their respective independent claims. Thus, dependent claims 2-9, 11-17 and 19-24 are patentable for at least the same reasons given above for independent claims 1, 10 and 18.

Accordingly, for all the reasons stated above, Applicant respectfully submits that the rejections of claims 1-24 are overcome.

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**CONCLUSION**

In view of the amendments and the remarks submitted above, it is respectfully submitted that the present claims are in condition for immediate allowance. It is therefore respectfully requested that a Notice of Allowance be issued. The Examiner is encouraged to contact Applicant's undersigned attorney to resolve any remaining issues in order to expedite examination of the present invention.

It is not believed that extensions of time or fees for net addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefore (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605.

Respectfully submitted,



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